

REMARKS

Amendments

Claim 1 is amended to recite that (B) is a polyethylene grafted with polyamide grafts or a polypropylene grafted with polyamide grafts. See, e.g., page 8, lines 3-5 and original claims 6 and 8. In addition, claim 1 is amended to recite that the MFI ratio of EVOH to polypropylene is between 8 and 25. See, e.g., page 7, lines 18-20. Claims 2-11, 20-21 and 23-24 are amended to use language in accordance with conventional US practice. Claims 3, 15-19, 22 and 25-29 are cancelled. New claims 30-42 are directed to further aspects of the invention and are supported throughout the disclosure. See, for example, page 6, line 17-page 7, line 9; page 8, lines 10-13; page 9, lines 14-17; page 11, lines 1-3, page 13, lines 4-11; page 14, line 13-page 15, line 7; and the Examples.

Rejection Under 35 USC §112, second paragraph

Claim 1 is amended to expressly refer to (A)/(B) weight ratio. It is noted that claim 1, as originally presented, stated that the components were listed in terms of weight.

Also, from the language of original claim 1 one of ordinary skill in the art would recognize that "0.5-45" referred to components A and B in combination. However, the claim is now amended to expressly recite that the range refers to a combination of these two components. With respect to "compatibilizer," it is respectfully submitted that this term is clear and one of ordinary skill in the art can readily understand the literal scope of the claim. Nothing more is required under the statute. See, also, for example, page 7, lines 24-26. As for "chosen from" as recited in claims 7 and 10, nothing within the rejection explains why this language is alleged to be indefinite. Nor is there any support for asserting that it does not constitute sufficiently clear Markush language. In any event, claims 7 and 10 are amended to recite the Markush groups in alternative language. The language of claims 6 and 8 has been clarified. See, e.g., page 8, lines 10-13, and page 13, lines 4-7. Claim 10 has been amended to delete the term "the copolyamide," and claim 1 is amended to correct the spelling of the abbreviation for minute.

In view of the above remarks, withdrawal of the rejection is respectfully requested.

Rejection Under 35 USC §103(a)

Claims 1-5, 12-14 and 20-22 are rejected as allegedly being obvious in view of Shimo et al. (US 6,294,602). This rejection is respectfully traversed. US '602 discloses a resin composition which comprises an ethylene-vinyl alcohol copolymer, a polyamide resin, an ethylene-unsaturated carboxylic acid random copolymer, thermoplastic resin. US '602, however, provides no disclosure or suggestion of a composition in accordance with Applicants' claimed invention. See, e.g., claim 1. In view of the above remarks, withdrawal of the rejection is respectfully requested.

Rejection Under 35 USC §102 or §103(a)

All of the claims are rejected as allegedly being anticipated or render obvious by the disclosure of Moriyama et al. (EP 0 440 557). This rejection is respectfully traversed.

Firstly, it is noted that US 5,177,138 is from the same patent family as EP '557.

EP '557 discloses a resin composition comprising (A) a saponified ethylene-vinyl acetate copolymer, (B) a polyolefin resin, (C) a graft polymer obtained by grafting an ethylenically unsaturated carboxylic acid or a derivative thereof to a polyolefin resin and reacting the adduct with a polyamide oligomer or polyamide, and (D) a hydrotaloite compound.

The polyolefin resin (B) can be selected from linear low-density polyethylene, medium- and high-density polyethylenes, ionomers, ethylene-propylene copolymer, crystalline polypropylene, polybutene, and ethylene-vinyl acetate copolymer of comparatively low vinyl acetate content. The graft polymer (C), which is said to be used for improving compatibility among the components of the resin composition, is obtainable by grafting an ethylenically unsaturated carboxylic acid or a derivative thereof to a polyolefin resin and which is then reacted with a polyamide oligomer or polyamide.

The proportion of saponified ethylene-vinyl acetate copolymer (A) is 50 to 99.5 weight %, preferably 60 to 95 weight %. The proportion of polyolefin resin (B) is 0.4 to 50 weight %, preferably 4.5 to 35 weight %. And, the proportion of graft polymer (C) is 0.1 to 15 weight %, preferably 1.5 to 10 weight %.

In Table 1, EP '557 discloses a composition which contains saponified ethylene-vinyl acetate copolymer, a polyolefin resin and a graft polymer. For the four saponified ethylene-

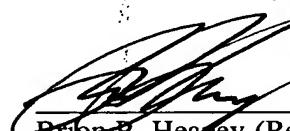
vinyl acetate copolymers, the melt flow rates (MFR) are 2, 3.5, 15 and 5 g/10 min. For the six polyolefin resins, the melt flow rates (MFR) are 3, 5, 8, 8, 4 and 1.2 g/10 mins. Of the 12 compositions, Example 7 in Table 1 exhibits the highest ratio MFR of saponified ethylene-vinyl acetate copolymer to MFR of polyolefin resin, i.e., 5. There is no suggestion or motivation provided by EP '557 that would lead one of ordinary skill in the art to a composition containing MFR ratio of 8-25.

In view of the above remarks, it is respectfully submitted that EP '557 fails to disclose inherently or expressly, each element of Applicants' claimed invention. Further, EP '557 fails to provide sufficient motivation which would lead one of ordinary skill in the art to modify the compositions described therein in such a manner as to arrive at an embodiment in accordance with Applicants' claimed invention.

Thus, it is respectfully submitted that EP '557 fails to anticipate or render obvious Applicants' claimed invention. Withdrawal of the rejection under 35 U.S.C. § 102 and/or § 103 is respectfully requested.

Favorable consideration of the above claims is respectfully requested.

Respectfully submitted,



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